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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SOMPO JAPAN INSURANCE COMPANY OF
AMERICA and SOMPO JAPAN INSURANCE,
INC.

:
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:
07 Civ. 2735 (DC)

Plaintiffs,

- against -

NORFOLK SOUTHERN RAILWAY
COMPANY, NORFOLK SOUTHERN
CORPORATION and THE KANSAS CITY
RAILWAY COMPANY

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:
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:
:
**DECLARATION OF
THOMAS M. EAGAN IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Defendants.

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I, Thomas M. Eagan, declare that I am a partner of Maloof Browne & Eagan LLC, attorneys for plaintiffs Sompo Japan Insurance Company of America and Sompo Japan Insurance, Inc.

1. I attach as Exhibit 1 a true copy of the Complaint.
2. I attach as Exhibit 2 a true copy of the Answers.
3. I attach as Exhibit 3 true copies of the bills of lading issued by Yang Ming Marine Transport Corporation ("Yang Ming") regarding the Kubota Tractor Shipment at issue in this litigation.
4. I attach as Exhibit 4 a true copy of the waybills issued by Yang Ming

regarding the Unisia Autoparts Shipment at issue in the litigation (produced by Yang Ming in response to subpoena).

5. I attach as Exhibit 5 a true copy of the Bill of Lading issued by Nippon Express regarding the Unisia Autoparts Shipment.

6. I attach as Exhibit 6 a true copy of the waybill issued by Yang Ming regarding the Hozuki Sushi cases/Ice Maker Shipment at issue in this litigation (produced by Yang Ming in response to subpoena).

7. I attach as Exhibit 7 a true copy of NYK Lines bill of lading regarding the Canon Shipment at issue in this litigation.

8. I attach as Exhibit 8 a true copy of the Waybills issued by Sumitrons Corporation regarding the Unisia Autoparts Shipment.

9. I attach as Exhibit 9 a true copy of Yang Ming bill of lading terms and conditions from their website.

10. I attach as Exhibit 10 a true copy of NYK Lines bill of lading terms and conditions from their website.

11. I attach as Exhibit 11 a true specimen copy of the Nippon Express bill of lading terms and conditions.

12. I attach as Exhibit 12 a true copy of "Miscellaneous Waybills" for the Shipments at issue as produced by defendants.

13. I attach as Exhibit 13 a true copy of an "Intermodal Transportation Agreement" as produced by defendants in this litigation.

14. I attach as Exhibit 14 a true copy of Section 8 of NS Intermodal Rail Circulars as produced by defendants.

15. I attach as Exhibit 15 a true copy of excerpts from Union Pacific Rail Circular from Union Pacific's website.

16. I attach as Exhibit 16 a true copy of the rail waybill at issue in *Sompo Japan v. Union Pacific*, 456 F.3d 54 (2d Cir. 2006).

17. I attach as Exhibit 17 a true copy of excerpts of the Union Pacific Rail Circular 20-B at issue in *Sompo*.

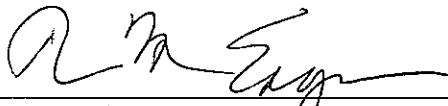
18. I attach as Exhibit 18 a true copy of the "Pricing & Rules Publication" and "Expired Tariff" pages from the Kansas City Southern website.

19. I attach as Exhibit 19 a true copy of excerpts of Kansas City Southern Railway's Rules Publication KCS9012 from the Kansas City Southern website.

20. I attach as Exhibit 20 a true copy of Norfolk Southern letterS dated February 2, 2007 and February 14, 2007.

I declare the foregoing is true and correct under the penalty of perjury of the laws of the United States.

Dated: Rye, New York
August 30, 2007



Thomas M. Eagan

To: All Counsel